

NEWS RELEASE



OFFICE OF THE UNITED STATES ATTORNEY SOUTHERN DISTRICT OF CALIFORNIA

San Diego, California

***United States Attorney
Carol C. Lam***

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For Immediate Release

NEWS RELEASE SUMMARY - January 11, 2006

United States Attorney Carol C. Lam announced that today a federal grand jury sitting in San Diego handed up a five-count indictment charging San Diego Gas and Electric ("SDG&E"), and three individuals with one count of conspiracy to unlawfully remove asbestos, three counts of unlawful removal of asbestos, and one count of making false statements. The charges relate to the alleged illegal removal of asbestos from 9.23 miles of underground piping at the former Encanto Gas Holder Facility (Encanto facility) in Lemon Grove in 2000-2001.

According to Assistant U.S. Attorney Melanie K. Pierson, who is prosecuting the case, SDG&E and two of its employees, Jacquelyn McHugh and David Williamson, as well as contractor, Kyle Rhuebottom, are charged with conspiring to violate the asbestos work practice standards of the Clean Air Act in the removal of the asbestos at the site in order to save time and money.

As detailed in the indictment, in January 1998, an analysis of a sample of the coating of the underground piping at the Encanto facility indicated that the coating was regulated asbestos containing material (RACM). Thereafter a consultant hired by SDG&E also reached the same conclusion.

The indictment alleges that defendant SDG&E subsequently entered into a tentative agreement for the sale of the Encanto facility, and in June 2000, defendant SDG&E began soliciting bids from contractors to handle the demolition of the Encanto facility and the removal of the underground piping.

The indictment identifies defendant Kyle Rhuebottom as the project superintendent for the general contractor ultimately awarded the demolition contract, defendant Jacquelyn McHugh as a supervisor in the Environmental Department of SDG&E, and defendant David Williamson as an Environmental Specialist for SDG&E.

According to the indictment, the defendants Rhuebottom, McHugh, and Williamson agreed that, in order to avoid the additional cost and time required in the removal of asbestos, they would inform government inspectors that the coating removed from the underground piping was not federally RACM. It is alleged that defendants Rhuebottom and McHugh transmitted a work plan to defendant SDG&E, which proposed to handle the removal of the asbestos containing material as non-RACM; that defendant Williamson left the Encanto facility without properly ensuring that the uncontained RACM, as pointed out to him by a government inspector, was placed in a leak proof container; and that defendant Williamson and SDG&E falsely stated in a response to a Notice of Violation issued by the San Diego County Air Pollution Control District that Williamson was a Certified Asbestos Consultant.

According to the indictment, defendant McHugh falsely informed the residents of Lemon Grove that the initial environmental assessment of the Encanto facility property performed for SDG&E determined that the protective coating surrounding the underground piping was not RACM, and that the mechanical stripper used at the Encanto facility was specifically designed for the purpose of asbestos abatement and had been used in similar applications around the United States.

United States Attorney Lam stated, "By intentionally misleading government inspectors, the defendants made the regulators' already challenging job even more difficult, and potentially jeopardized the health and safety of the community."

EPA's Assistant Administrator for Office of Enforcement and Compliance Assurance, Granta Y. Nakayama, stated, "This indictment sends the message that EPA will take action against those who put illegal

financial gain ahead of human health, protection of the environment, and their obligation to obey the law.”

FBI Special Agent in Charge Daniel R. Dzwilewski commented, "San Diego Gas and Electric personnel, and the subcontractors they choose, are in positions which require the strictest adherence to the federal laws governing hazardous material handling and hazardous waste disposal. Disregard for these laws caused intense concern among the citizenry of Lemon Grove. In such cases, the FBI stands ready to hold accountable those that break these laws."

According to the Environmental Protection Agency (EPA), under the federal Clean Air Act, asbestos is classified as a hazardous air pollutant. Because no safe level of asbestos exposure has been established, the EPA promulgated the asbestos work practice standards to govern asbestos removal operations. Asbestos inhalation has been known to cause asbestosis and mesothelioma, which are deadly, painful, incurable diseases which could take up to 20 years to develop.

DEFENDANTS

Criminal Case No. 06-CR-0065-DMS

San Diego Gas and Electric, Inc.
San Diego, California

Jacqueline McHugh
Jamul, California

David Joseph “Willy” Williamson
Spring Valley, California

Kyle Rheubottom
San Diego, California

SUMMARY OF CHARGES

Count 1 (All defendants)

Conspiracy, in violation of Title 18, United States Code, Section 371; Maximum Penalty: 5 years in custody, and/or \$250,000 fine for individuals (\$500,000 for corporations)

Count 2 (All defendants)

Violation of Asbestos Work Practice Standards, in violation of Title 42, United States Code, Sections 7412 and 7413(c)(1); Maximum Penalty: 5 years in custody, and/or \$250,000 fine for individuals (\$500,000 for corporations)

Count 3 (Defendants SDG&E and Rhuebottom)

Violation of Asbestos Work Practice Standards, in violation of Title 42, United States Code, Sections 7412 and 7413(c)(1); Maximum Penalty: 5 years in custody, and/or \$250,000 fine for individuals (\$500,000 for corporations)

Count 4 (Defendants SDG&E and Williamson)

False Statements, in violation of Title 18, United States Code, Section 1001; Maximum Penalty: 5 years in custody, and/or \$250,000 fine for individuals (\$500,000 for corporations)

Count 5 (Defendants SDG&E, Rhuebottom and Williamson)

Violation of Asbestos Work Practice Standards, in violation of Title 42, United States Code, Sections 7412 and 7413(c)(1); Maximum Penalty: 5 years in custody, and/or \$250,000 fine for individuals (\$500,000 for corporations)

AGENCIES

U.S. Environmental Protection Agency, Criminal Investigation Division
Federal Bureau of Investigation
San Diego County Air Pollution Control District

An indictment itself is not evidence that the defendants committed the crimes charged. The defendants are presumed innocent until the Government meets its burden in court of proving guilt beyond a reasonable doubt.